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5

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,790	03/16/2004	Yung Chu Cheng	USP2329T-MHC	9208
30265	7590	01/11/2006		EXAMINER
RAYMOND Y. CHAN 108 N. YNEZ AVE., SUITE 128 MONTEREY PARK, CA 91754				PATEL, NIHIL B
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/800,790	CHENG, YUNG CHU	
	Examiner	Art Unit	
	Nihir Patel	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11.03.2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 13-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Applicant's arguments filed on November 3rd, 2005 have been fully considered but they are not persuasive. The applicant argues that Flynn fails to suggest any eye protection film affixed to an upper periphery of the mask body. The examiner disagrees. Flynn does disclose an eye protection film affixed to an upper periphery of the mask body (**see column 8 lines 5 through 10**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 15, 16 and 19 through 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (US 6,543,450) in view of Chung (US 6,526,975). Referring to claim 13, Flynn discloses the applicant's invention as claimed with the exception of providing an adhesive band having a user adhesion side that is provided on film periphery of the eye protection film and is adapted for placing on the user's face to maintain the eye protection film with a predetermined distance away from the user with respect to the facial contour of the user and to seal foreign objects, viruses or bacteria from the user's face. Chung discloses an apparatus that does provide an adhesive band having a user adhesion side that is provided on film periphery of the eye protection film and is adapted for placing on the user's face to maintain the eye protection film with a predetermined distance away from the user with respect to the facial contour of the user and to seal foreign objects, viruses or bacteria from the user's face. Therefore

it would have been obvious to modify Flynn's invention by providing an adhesive band having a user adhesion side that is provided on film periphery of the eye protection film and is adapted for placing on the user's face to maintain the eye protection film with a predetermined distance away from the user with respect to the facial contour of the user and to seal foreign objects, viruses or bacteria from the user's face as taught by Chung in order to protect the face from toxic external environment.

Referring to claims 15 and 16, Flynn discloses the applicant's invention as claimed with the exception of providing an adhesive band that further comprises a parting covering the user adhesion side when the adhesive band is not in use, wherein the parting is removed when the mask is in use. Chung discloses an apparatus that does provide an adhesive band that further comprises a parting covering the user adhesion side when the adhesive band is not in use, wherein the parting is removed when the mask is in use (see column 3 lines 35-40). Therefore it would have been obvious to modify Flynn's invention as claimed by providing an adhesive band that further comprises a parting covering the user adhesion side when the adhesive band is not in use, wherein the parting is removed when the mask is in use as taught by Chung in order to protect the face from toxic external environment.

Referring to claims 19, 20 and 21, Flynn discloses an apparatus wherein the stabling strap comprises two ear hanging straps for wearing at user's ears respectively so as to retain the mask body in position (see figures 1 and 2B).

Referring to claims 22, 23 and 24, Flynn discloses an apparatus that further comprises a nose adjusting piece formed at the upper periphery of the mask body, wherein the nose adjusting piece is adapted to be deformed for fitting at the nose of the user according to a nose contour of

the user so as to enforce the eye protection film to be deformed at the upper periphery of the mask body (see **column 8 lines 10-20**).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (US 6,543,450) in view of Olson (US 5,206,956). Referring to claim 14, Flynn discloses the applicant's invention as claimed with the exception of providing an eye protection film is made of polypropylene. Olson discloses an apparatus that does provide an eye protection film is made of polypropylene. Therefore it would have been obvious to modify Flynn's invention by providing an eye protection film is made of polypropylene as taught by Olson in order to protect the face from toxic external environment.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (US 6,543,450) in view of Chung (US 6,526,975) as applied to claims 15 and 16 above, and further in view of Forbes (US 4,856,535). Flynn and Chung discloses the applicant's invention as claimed with the exception of providing a parting that has a plurality of tear off lines. Forbes discloses a protective face shield that does provide a parting that has a plurality of tear off lines (see **column 4 lines 40-45**). Therefore it would have been obvious to modify Flynn's invention by providing a parting that has a plurality of tear off lines in order to make it easier to remove the parting cover.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn US Patent No. 6,543,450 in view of Gazzara US Patent No. 5,406,944. Flynn discloses the applicant's invention as claimed with the exception of providing a nose adjustment that is provided on the upper periphery of the mask body. Gazzara discloses a mask with adjustable shield that does provide a nose adjustment that is provided on the upper periphery of the mask

body. Therefore it would have been obvious to modify Flynn's invention by providing a nose adjustment that is provided on the upper periphery of the mask body in order to adjust the mask according the face structure of the wearer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

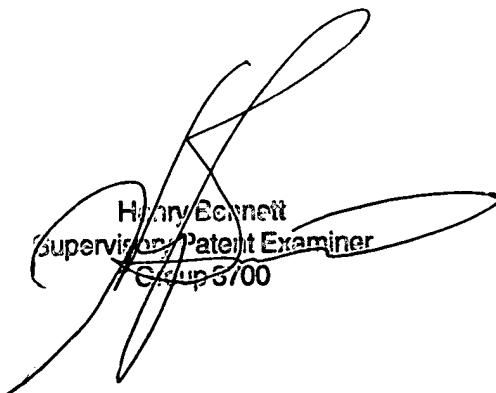
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nihir Patel
January 3rd, 2006


Harry E. Bennett
Supervisory Patent Examiner
Group 3700